

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Application of Bell Atlantic )  
Pursuant to Section 271 of the )  
Telecommunications Act of 1996 )  
To Provide In-Region, )  
InterLATA Services )  
in New York )

CC Docket No. 99-295

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**COMMENTS OF  
NATIONAL ALEC ASSOCIATION**

The National ALEC Association ("NALA") hereby file these comments on the above-captioned application of Bell Atlantic-New York ("Bell Atlantic") to provide in-region, InterLATA services in the State of New York. As discussed below, Bell Atlantic has failed to demonstrate the commitment to promoting competition in local markets required by the fourteen-point "Competitive Checklist" which Bell Atlantic must satisfy to receive approval to provide in-region, InterLATA service.<sup>1/</sup> Absent conditions to rectify these shortcomings, the Commission should dismiss Bell Atlantic's application.

**Background**

NALA is an organization comprised of alternative local exchange carriers ("ALECs") which resell local telephone services to hundreds of thousands of residential consumers unwanted by traditional telephone companies. These consumers are unwanted because they may have poor credit histories, cannot provide a security deposit, had telephone service disconnected in the past, have past due balances, or lack sufficient identification. In many cases, the service

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<sup>1/</sup> 47 U.S.C. § 271(c)(2)(B).

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provided by NALA members offers the only option for local phone service, including access to 911 emergency service, for millions of American consumers.

NALA members provide local telephone service to residential consumers by reselling the flat-rate local services offered by Bell Atlantic. Unlike other resellers that compete with Bell Atlantic for customers, NALA members actually increase the volume of traffic routed over Bell Atlantic's network by serving customers who cannot get service from Bell Atlantic. Too often, however, as discussed in more detail below, Bell Atlantic's actions and inactions have created significant obstacles for NALA members.

**I. Bell Atlantic Has Imposed Unreasonable Conditions on Resale in Violation of Point Fourteen of the Competitive Checklist**

The fourteenth point of the Competitive Checklist requires Bell Atlantic to make telecommunications services available for resale and to not "impose unreasonable or discriminatory conditions or limitations" on such resale.<sup>2/</sup> Bell Atlantic does not provide a flat-rate local service option for resale in New York City, which NALA members suggest is an unreasonable limitation on resale.

NALA members provide prepaid local phone service to those customers who primarily have had their local exchange service terminated for nonpayment of their local or long distance telephone bills. Because the service is prepaid, it is important that the cost of the service to the consumer does not change each month. Thus, prepaid local providers must block all services

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<sup>2/</sup> See 47 U.S.C. § 271(c)(2)(B)(xiv) (requiring a Bell Operating Company to make telecommunications services available for resale in accordance with the terms of 47 C.F.R. § 251(c)(4)).

that could result in per call or per minute charges, including toll,<sup>3/</sup> operator services, information services, directory assistance (“DA”), and DA call completion.<sup>4/</sup> In New York City, however, Bell Atlantic only offers message rate service and does not offer a flat-rate telephone service at all, making prepaid local service impossible to provide in the city with likely the greatest need for the service. This unreasonable limitation on the services which NALA members can resell violates the Act and, in accordance with Point Fourteen of the Competitive Checklist, should prevent the Commission from approving Bell Atlantic’s application to provide in-region, InterLATA service in New York.

Legal arguments aside, it makes plain business sense for Bell Atlantic to make available a flat-rate local service option for resale to residential customers in New York City. As Bell Atlantic acknowledges in its Brief, its economic interests are served by keeping traffic on its network.<sup>5/</sup> NALA members actually increase the volume of traffic routed over the Bell Atlantic network and, in turn, increase Bell Atlantic’s revenues by purchasing such services at wholesale rates and by serving customers who Bell Atlantic would not otherwise serve. Bell Atlantic’s failure to provide flat-rate local calling demonstrates that it is not truly committed to opening its local markets to resellers.

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<sup>3/</sup> Customers of prepaid local service providers make long distance calls by using calling cards or other services that rely on access through toll-free numbers.

<sup>4/</sup> DA Call Completion service permits a caller to obtain a phone number and, for an additional charge, be connected to that number, which in some cases results in a toll call.

<sup>5/</sup> See Brief of Bell Atlantic at 57 (“Bell Atlantic . . . operates a large, sunk-cost network. To recoup its investment, Bell Atlantic must generate revenue from traffic flowing over that network.”).

## **II. Bell Atlantic Has Failed to Achieve “Parity” in Any Sense of the Term in Providing Services to Resellers**

In its application, Bell Atlantic argues that its provides “checklist items,” including wholesale services, “consistently . . . on time, when competitors request them.”<sup>6/</sup> Bell Atlantic then backtracks, stating that it does not have to provide checklist items with “metaphysical perfection”; rather, the standard is “parity . . . where differences do exist, they are not so large as to be competitively significant.”<sup>7/</sup> Artful word smithing notwithstanding, the simple fact is that Bell Atlantic does not achieve “parity” in providing wholesale services to resellers. As indicated below, Bell Atlantic’s interpretation of the word “parity” does not appear to be in sync with the common understanding of that term.

### **A. Inadequate Billing Processes**

NALA members have encountered significant problems with the billing practices of Bell Atlantic. For example, when a NALA member requests that Bell Atlantic suspend or disconnect a customer’s service due to nonpayment, Bell Atlantic should stop billing for service to that customer beginning immediately after such request. In many cases, however, Bell Atlantic continues to charge the reseller for service until it actually performs the suspension or disconnection, which may be days later. Bell Atlantic will suspend or disconnect its own customers immediately. NALA can only wonder how this achieves anyone’s definition of “parity.” Even more problematic is that NALA members have found that approximately 20-25

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<sup>6/</sup> See Brief of Bell Atlantic at 10.

<sup>7/</sup> *Id.*

percent of Bell Atlantic bills contain errors or are simply indecipherable.

**B. Improperly Processed Orders**

In many cases, Bell Atlantic improperly processes resellers' orders. In particular, NALA members have experienced problems with Bell Atlantic's frequent error of not activating toll blocks on accounts. This error enables NALA members' prepaid customers to make toll calls which are not part of the prepaid local service offering. NALA members are unlikely to recover these charges from their end users.

**C. Missed Appointments**

NALA members have also experienced problems with Bell Atlantic missing appointments to connect service to new customers. Bell Atlantic not only requires resellers to order a new due date if it misses the original appointment, but often charges the reseller for both the original order and the reorder. At times, Bell Atlantic has actually activated service for both the initial and second orders and then charged the reseller for a primary and a second line.

**D. Changing of Preassigned Phone Numbers**

Through its control of the numbers available to resellers, Bell Atlantic has a distinct competitive advantage over resellers in providing local service. NALA members have experienced situations in which Bell Atlantic will change the phone number preassigned to a reseller's customer without any notification. Thereafter, a bill will generate from Bell Atlantic to the prepaid carrier with the wrong billing telephone number listed, causing a billing dispute among the parties.

**E. Inadequate Testing and Installation of the Network Interface Device**

NALA members have also become frustrated with Bell Atlantic's inadequate testing and installation of the Network Interface Device ("NID") and its connection with the correct dial tone line wiring within the customer's premises. This inadequate testing frequently results in the misdirection of the dial tone signal within the customer's premises. Bell Atlantic will not ensure that the phone rings in the reseller's customer's home when initiating service. With respect to its own end user customers, however, installation is not complete until Bell Atlantic ensures that the phone rings in the end user's home.

For NALA members, the end result is end-user customer complaints, substantial loss of subscribers and revenues, and a considerable increase in operational expenses. NALA members bear the inordinate cost of having Bell Atlantic field personnel make subsequent visits to the customer's premises in order to correct NID connection problems that were caused by Bell Atlantic's actions or omissions in the first place. In Pennsylvania, despite NALA's members efforts to negotiate a mutually agreeable solution to the NID interconnection and testing problem, NALA was forced to file a formal complaint against Bell Atlantic before the Pennsylvania Public Utilities Commission.<sup>8/</sup>

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<sup>8/</sup> See Cellular Rentals, Inc. (d/b/a PA. Telecom) and the National ALEC Association v. Bell Atlantic-Pennsylvania, Inc. ( Docket No. C-00992772). This proceeding also involves Bell Atlantic's refusal to block DA, DA call completion, and metro market toll calls in Pennsylvania.

### **III. Bell Atlantic's Dispute Resolution Processes Violate Its Own Stated Practices**

The resale agreements NALA members have with Bell Atlantic have detailed dispute resolution procedures. Like most ILECs, however, Bell Atlantic permits disputed charges to linger for months, and even years, without resolution. As a result, the reseller's outstanding balance grows on a monthly basis while it accrues late fees. Bell Atlantic's own "Resale Handbook" states that disputes "are handled as promptly as possible" and that Bell Atlantic will indicate an "expected date for resolution" for disputes that cannot be resolved within thirty days.<sup>9/</sup> Bell Atlantic has not been following its own stated practices.

### **IV. The Commission Should Require Bell Atlantic to Post Its New York Tariffs on the Internet as a Condition of Section 271 Approval**

NALA members have become frustrated with their inability to have simple questions answered in a timely fashion by the representatives of Bell Atlantic. Often, these questions may be answered by referring to Bell Atlantic's resale<sup>10/</sup> or basic local service tariff. In the event that the Commission approves of Bell Atlantic's application, NALA requests that the Commission require Bell Atlantic to post its current local and resale tariffs on the Internet as a condition for approval.<sup>11/</sup> Such a requirement will enable resellers to have easy access to Bell Atlantic's local

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<sup>9/</sup> See Exhibit A.

<sup>10/</sup> See NY PSC 915 Tariff.

<sup>11/</sup> NALA notes that the Commission has recently required nondominant interexchange carriers to post the rates, terms, and conditions governing their services on the Internet. See Policy and Rules Concerning the Interstate, Interexchange Marketplace, Second Order on Reconsideration and Erratum, CC Docket No. 96-61, FCC 99-47 (rel. March 31, (continued...))

and resale tariffs in New York, thus eliminating the need to rely on Bell Atlantic representatives for vital information. Given the voluminous nature of Bell Atlantic's New York tariffs, in no state is access to tariffs via the Internet more vital. Posting tariffs on the Internet is but a small gesture for Bell Atlantic to demonstrate that it is truly committed to ensuring competition in its local markets.

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<sup>11/</sup> (...continued)  
1999). The Commission has also required incumbent local exchange carriers with web sites to post their Part 61 tariffs on the Internet. See 1998 Biennial Regulatory Review--Part 61 of the Commission's Rules and Related Tariffing Requirements, Report and Order and First Order on Reconsideration, CC Docket No. 98-131, CC Docket No. 96-187 (rel. August 3, 1999).

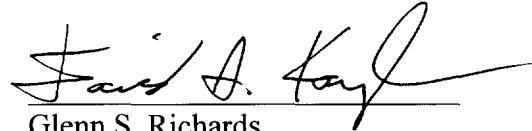


### **Conclusion**

Bell Atlantic should not be permitted to provide InterLATA services in New York until it can demonstrate that resellers can truly compete on equal terms. Today, that is not the case. Therefore, based on the foregoing, NALA urges the Commission to act in a manner consistent with the views expressed in these comments.

Respectfully submitted,

**NATIONAL ALEC ASSOCIATION**

A handwritten signature in black ink, appearing to read "Glenn S. Richards", written over a horizontal line.

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October 19, 1999

**CERTIFICATE OF SERVICE**

I, Angela Dortch, a secretary to the law firm of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that on this 19th day of October 1999, served a true copy of the foregoing **"COMMENTS"** by first class United States Mail, postage prepaid, upon the following:

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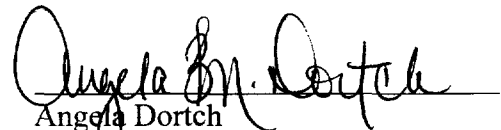
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